

WESTERN AUSTRALIA.

# DENTAL.

3° Geo. VI., No. XX.

## No. 20 of 1939.<sup>1</sup>

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

- No. 13 of 1947, assented to 1st November, 1947;
- No. 48 of 1954, assented to 8th December, 1954;
- No. 75 of 1963, assented to 19th December, 1963;
- No. 11 of 1967,<sup>2</sup> assented to 20th October, 1967;
- No. 98 of 1970,<sup>3</sup> assented to 8th December, 1970;
- No. 108 of 1972,<sup>4</sup> assented to 6th December, 1972;
- No. 39 of 1973, assented to 18th October, 1973;
- No. 107 of 1975, assented to 1st December, 1975,

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT to consolidate and amend the Law relating to dentists and dental therapists, to regulate the practice of dentistry, and for purposes incidental thereto.**

Long Title substituted by No. 103 of 1972, s. 3.

[Assented to 16th November, 1939.]

BE it enacted—

1. This Act may be cited as the *Dental Act, 1939-1975*, and shall come into operation on a date to be fixed by proclamation.<sup>1</sup>

Short title and commencement. Amended by No. 107 of 1975, s. 1.

<sup>1</sup> Came into operation on 1st December, 1939. See *Gazette* 24/11/39, p. 2041.

<sup>2</sup> Came into operation 16th February, 1968. See *Gazette* 16/2/68, p. 337.

<sup>3</sup> Came into operation on 5th March, 1971. See *Gazette* 5/3/71, p. 669.

<sup>4</sup> Came into operation on 1st January, 1973. See *Gazette* 22/12/72, p. 4755.

Act divided  
into Parts.

Amended by  
No. 75 of  
1963, s. 2;  
No. 108 of  
1972, s. 4.

2. This Act is divided into Parts, as follows:—

PART I.—ss. 3 and 4—PRELIMINARY.

PART II.—ss. 5 to 16—THE DENTAL BOARD.

PART III.—ss. 17 to 33—THE REGISTER.

*Division 1.—ss. 17 to 18—Register  
to be kept by Registrar.*

*Division 2.—ss. 22 to 33—General.*

[PART IV.—*Deleted by No. 75 of 1963, s. 2.*]

[PART V.—*Deleted by No. 75 of 1963, s. 2.*]

PART VI.—ss. 44 to 44B—REGISTRATION.

PART VII.—ss. 45 to 65—MISCELLANEOUS.

SCHEDULE—ACTS REPEALED.

PART I.—PRELIMINARY.

Repeal.

3. The Acts mentioned in the Schedule to this Act are hereby repealed.

Interpreta-  
tion.

Amended by  
No. 75 of  
1963, s. 3;  
No. 108 of  
1972, s. 5.

4. In this Act, unless the context otherwise requires—

“Board” means The Dental Board of Western Australia established by this Act;

“Committee” means the Dental Charges Committee established by this Act;

“Company” means any incorporated body or association, other than the Western Australian College of Dental Science and Perth Dental Hospital Incorporated;

“Dental therapist” means a person whose name is entered in the Register as a dental therapist;

“Dentist” means a dentist registered under this Act and whose name is entered in the Register;

“Dentistry” means and includes any operation on or service in connection with the human teeth or jaws, and the artificial restoration of lost or removed teeth, or jaws and the treatment of diseases or lesions, and the

correction of malpositions in human teeth or jaws, and any operation, treatment, or service on or to any person as preparatory to or for the purpose of or in connection with the fitting, insertion, or fixing of artificial teeth, and also every dental service, act, or operation of any kind or nature whatsoever;

The term does not include the mechanical construction of artificial dentures by an artisan employed or engaged by a dentist.

The performance of a single operation, service, or act of dentistry shall be deemed to be practising dentistry;

“Legal practitioner” means a person admitted and entitled to practise as a barrister, solicitor, attorney, and proctor of the Supreme Court of Western Australia, or in any one or more of those capacities;

“Medical practitioner” means a medical practitioner registered under the Medical Act, 1894;

“Minister” means the Minister of the Crown charged with the administration of this Act;

“President” means the President of the Board and includes an acting President;

“Principal Dental Officer” includes the person designated as the Principal Dental Officer of the Department of the Public Service of the State known as the Department of Public Health and any person nominated by him in writing for the purposes of this Act;

“Register” means the Register of Dentists and Dental Therapists to be kept by the Registrar for the purposes of this Act;

“Registered” means registered under this Act;

“Registrar” means the Registrar appointed under this Act and includes also an acting Registrar;

“Rules” means rules made by the Board under the authority of this Act.

PART II.—THE DENTAL BOARD.

Dental Board established.  
Amended by  
No. 75 of  
1963, s. 4;  
No. 108 of  
1972, s. 6.

5. (1) A Board, to be called “The Dental Board of Western Australia,” is hereby established for the purposes of this Act.

(2) The Board shall consist of eight members, namely—

- (a) four dentists to be elected by the dentists;
- (b) two dentists to be nominated by the Governor; and
- (c) one medical practitioner to be nominated by the Australian Medical Association (Western Australian Branch); and
- (d) one legal practitioner to be nominated by the Law Society of Western Australia (Inc.).

(3) The election of the elective members of the Board shall be made and conducted in accordance with the regulations; the members to be nominated by the Governor shall be so nominated on the recommendation of the Minister; the medical practitioner member to be nominated by the Australian Medical Association (Western Australian Branch) shall be so nominated by a resolution of the Council of that body duly passed at a duly convened meeting of that Council; and the legal practitioner member to be nominated by the Law Society of Western Australia (Inc.) shall be so nominated by a resolution of the Council of that Society duly passed at a duly convened meeting of that Council.

(4) If no nomination or no sufficient nominations of a person or persons to be elected as the elective members of the Board is or are received for an election of elective members, or if no medical practitioner is nominated by the said Australian

Medical Association (Western Australian Branch), or if no legal practitioner is nominated by the said Law Society of Western Australia (Inc.) within one month after a request by the Minister for the nomination of such a medical practitioner, the Minister, on the recommendation of the President of the Board in office at the time, may nominate such dentists, such medical practitioner or such legal practitioner, as the case may require, necessary to complete the membership of the Board.

(5) [*Repealed by No. 108 of 1972, s. 6.*]

(6) [*Repealed by No. 108 of 1972, s. 6.*]

6. The members of the Board shall hold office for a period of three years from the date of their election or of their nomination, as the case may be, but shall be eligible for re-election or for re-nomination.

Tenure of office.  
Amended by  
No. 108 of  
1972, s. 7.

7. (1) The Board shall be a body corporate under the name "The Dental Board of Western Australia" with perpetual succession and a common seal, and shall be capable of suing and being sued in its corporate name and of acquiring, holding, and disposing of real and personal property, and of doing and suffering such acts and things as bodies corporate may by law do and suffer.

The Board  
to be a body  
corporate.

(2) The seal of the Board and the signature of the President and of every member of the Board shall be judicially noticed by all courts and persons authorised by law to receive evidence on oath.

Judicial  
notice of  
seal and  
signatures.

(3) No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

Acts of  
Board not  
invalidated  
by vacancy.

(4) No act or proceeding of the Board, or by any committee or member of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding was done,

Acts not  
invalidated  
by defect in  
election or  
nomination  
of member.

taken, or commenced there was some defect in the election or nomination of any member of the Board, or that any member of the Board was disqualified or not authorised to do or participate in the doing of anything done by the Board or by such member.

Proceedings  
of the  
Board.

8. (1) Any four members of the Board shall form a quorum thereof.

(2) The members of the Board shall appoint one of the dentist members to be the President of the Board, who shall be *ex officio* chairman at all meetings of the Board: Provided that the President of the Dental Board as constituted and functioning immediately prior to the commencement of this Act shall be the President of the first Board established under this Act.

(3) If by reason of sickness, absence from the State, or any other reason the President is unable to discharge his duties as such President, the members of the Board may appoint one of the dentist members to be acting President, who shall have full right to and may exercise all the powers, functions, and authorities and shall perform all the duties of President until the President resumes his duties.

(4) At all meetings of the Board the President or, in his absence, the acting President (if any), shall preside. In the absence both of the President and the acting President (if any) from any meeting of the Board the members present shall elect one of their number to be chairman of the meeting.

(5) Whenever the members are not unanimous as to any matter, such matter shall be decided by the majority of votes of the members present, and the decision so arrived at shall be the decision of the Board.

(6) Each member of the Board shall have one vote, and the chairman at any meeting of the Board, when presiding, shall have a deliberative vote and, in case of an equality of votes, shall also have a casting vote.

9. Any member of the Board may resign from the Board by notice in writing signed by him and given to the President, or, when the President is the member resigning, given to the Registrar.

Resignation.

10. Any person who has his affairs under liquidation or is an undischarged bankrupt or insolvent, or has been convicted of an indictable offence, or is undergoing sentence of imprisonment, or becomes an insane person, shall be disqualified from being elected or nominated or from continuing as a member of the Board.

Disqualifications.

11. (1) The office of a member of the Board shall be vacated—

Vacancies.  
Amended by  
No. 108 of  
1972, s. 8.

- (a) if he is or has become disqualified under this Act; or
- (b) if, without leave obtained from the Board in that behalf, he has been absent from three consecutive meetings of the Board; or
- (c) upon death or resignation; or
- (d) in the case of a dentist member, when he ceases to be registered as a dentist under this Act; in the case of a medical practitioner member, when he ceases to be a duly qualified medical practitioner; and, in the case of a legal practitioner member, when he ceases to be a duly qualified legal practitioner.

(2) Where the office of any member of the Board becomes vacant, the person elected or nominated, as the case may be, to fill such vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

12. (1) In the case of illness, other incapacity, or absence from the State of any member of the Board other than the President, by reason whereof the member is likely to be unable to perform his

Deputy  
members.  
Amended by  
No. 108 of  
1972, s. 9.

duties for three months, the President of the Board may appoint another dentist, another medical practitioner, or another legal practitioner, as the case may require, to act as a member of the Board in place of such member during his illness, incapacity, or absence aforesaid.

(2) In case of the illness, other incapacity, or absence from the State of the President of the Board with the consequence mentioned in subsection (1) hereof, subsection (1) hereof shall apply, save and except that the appointment of another dentist to act as a member of the Board in the place of the President as a member shall be made by the Minister.

Provided that nothing in this subsection shall be deemed automatically to confer upon the dentist appointed by the Minister the office of acting President, and that this subsection shall not in any way interfere with or affect the operation of subsection (3) of section eight of this Act.

Remuneration of members.  
Added by  
No. 108 of  
1972, s. 10.

**12A.** A member of the Board, not being a person to whom the Public Service Act, 1904, applies, shall be entitled to such allowances and remuneration for his services as the Minister from time to time determines.

Officers of the Board.

**13.** (1) The Board shall appoint a Registrar, and may appoint such examiners and other officers and servants as it considers necessary, to enable the Board to carry out its duties and functions.

(2) The remuneration of such Registrar and examiners and other officers and servants shall be paid out of the funds of the Board.

Funds of the Board.

**14.** (1) The funds of the Board shall consist of—

- (a) the fees prescribed by or under this Act and payable to the Board;
- (b) grants by the Government of the State (if any), and all gifts and donations made by any person to the Board, but subject to any trusts declared in relation thereto;



- (c) fines and penalties imposed and recovered upon convictions for offences against this Act; and
- (d) all the moneys which may come into the hands of the Board under and for the purposes of this Act.

(2) The funds of the Board may be applied by the Board—

- (a) for any of the purposes of the Act; or
- (b) the furtherance of dental education and research; or
- (c) any public purpose connected with the profession of dentistry in this State; or
- (d) any other purpose approved of by the Minister.

15. (1) The Board may, with the approval of the Governor, make rules in relation to all or any of the following matters, namely—

- (a) for regulating the meetings and proceedings of the Board and the conduct of its business;
- (b) for the custody and use of the common seal of the Board;
- (c) for enabling the Board to constitute committees and authorising the delegation to committees of any of the powers of the Board, and for regulating the proceedings of committees;
- (d) prescribing the examinations to be passed by persons desiring to be registered as dentists or dental therapists, and determining the qualifications to be held, and the evidence to be produced by any such persons;
- (e) for regulating the practice of dentistry and of dental specialities;
- (ea) for regulating those acts of dentistry performed by a dental therapist;

Board may  
make rules.  
Amended by  
No. 75 of  
1963, s. 5;  
No. 113 of  
1965, s. 8;  
No. 108 of  
1972, s. 11.

*Dental.*

- (f) for regulating the keeping of the Register;
  - (g) for regulating the manner of making application for and the granting of permits to use or to continue the use of firm names as dentists;
  - (h) for regulating the manner of making to the Board any charge or complaint against or concerning any dentist or dental therapist, and the inquiry by the Board into such charge or complaint;
  - (ha) for regulating the exercise by the Board of its disciplinary powers;
  - (i) prescribing the forms of certificates, licenses, and permits to be granted to dentists and dental therapists;
  - (j) prescribing fees to be charged in respect of any matter, proceeding, examination, charge, or complaint made to the Board, and registration and in respect of the granting of any certificate or license under this Act;
  - (k) prescribing the fee or charge to be paid by persons who desire to have their names restored to the Register; and
  - (l) for any other matter which the Governor may declare to be a matter in respect of which rules may be made by the Board under this section.
- (2) Where by any rule made under subsection (1) hereof a duty or obligation is imposed upon any person to do or not to do any act, matter, or thing specified in such rule, any contravention by such person of such rule shall be a breach of the rule, punishable on conviction by a penalty of a sum not exceeding forty dollars.
- (3) Nothing in subsection (1) of this section shall affect or limit the power of the Governor under this Act to make regulations for or in respect of any matters mentioned in subsection (1) aforesaid, and where the Board has made a rule and the Governor

makes a regulation in respect of the same matter and there exists any inconsistency between such rule and such regulation, the rule shall, to the extent of such inconsistency, be superseded by the regulation and shall be read and have effect subject to the regulation.

16. The Registrar, or any other person authorised in that behalf by writing signed by the President of the Board, may, subject to the direction of the Board, commence, carry on, prosecute and defend any action, complaint, information, or other proceeding in the name of the Board.

Registrar or other authorised person may take and defend proceedings.

### PART III.—THE REGISTER.

#### *Division 1.—The Register to be kept by the Registrar.*

17. For the purpose of this Act there shall be kept by the Registrar in the manner and form prescribed a Register of Dentists and Dental Therapists.

Register to be kept by Registrar.  
Amended by No. 75 of 1963, s. 8; No. 108 of 1972, s. 12.

18. (1) The Registrar shall enter in the Register the name, address, description, and qualification of every dentist and of every dental therapist for the time being and from time to time qualified and required to be registered under this Act, together with particulars of any restriction or limitation on the practice of dentistry or on employment as a dental therapist, or of any condition, imposed by the Board in relation to that person under this Act, and such other particulars as may be prescribed.

The Register  
Amended by No. 113 of 1965, s. 8; No. 108 of 1972, s. 13.

(2) Where a dentist satisfies the Board that, in addition to holding the qualification for registration prescribed by or recognised under this Act, he is entitled to and holds another qualification which is or may be incidental to the practice of dentistry, and the Board approves of particulars of such other

qualification being entered in the Register in relation to such dentist, the Registrar shall, if so requested by the dentist, enter particulars of such other qualification in the Register accordingly.

(3) Every dentist or dental therapist whose name is entered in the Register in accordance with this section shall, on payment of the prescribed fee, be entitled to be issued by the Board with a registration certificate in the prescribed form.

19. [*Repealed by No. 75 of 1963, S.9.*]

20. [*Repealed by No. 75 of 1963, S.9.*]

21. [*Repealed by No. 75 of 1963, S.9.*]

*Division 2—General.*

Register open  
to inspection.  
Amended by  
No. 75 of  
1963, s. 10;  
No. 113 of  
1965, s. 8;  
No. 108 of  
1972, s. 14.

22. The Register shall be open to inspection by any person at the office of the Registrar on the days and during the hours prescribed, on payment of the prescribed fee.

Withdrawal  
of name.  
from  
Register.  
Amended by  
No. 75 of  
1963, s. 11.

23. (1) Any person whose name is entered on the Register may, at any time by notice in writing in the prescribed form, signed by him, request the Board to withdraw his name from the Register, and upon receipt of such notice, but subject as hereinafter provided, the Registrar shall, by striking out the same, withdraw the name of such person from the Register.

Provided that, if at the time when notice is given to the Board as aforesaid, an allegation or charge of an offence against or under this Act, or of infamous or disgraceful conduct in a professional respect is pending against the person giving the notice, the name of such person shall not be withdrawn from the Register, until such allegation or charge has been duly inquired into or heard and has been determined by the Board or the court, as the case may require.

(2) When the name of any person is withdrawn from the Register he shall cease to be registered and until his name is re-entered in the Register he shall cease to have and enjoy and shall not be entitled to derive or exercise any benefit which accrues to a person by virtue of his name being entered in the Register.

24. (1) Any person whose name has been withdrawn from the Register, as provided for in section twenty-three of this Act, may at any time thereafter make application in the prescribed form to the Board for re-entry of his name in the Register.

Name of person may be re-entered in Register.  
Amended by No. 48 of 1954, s. 2; No. 75 of 1963, s. 12.

(2) Upon receipt of such application, but subject to this Act and the rules and regulations, the Board shall direct the Registrar, upon payment by the applicant of a sum, to be assessed in accordance with subsection (3) hereof, to enter again the name of the applicant in the Register and upon payment by the applicant of such sum the Registrar shall comply with the direction of the Board.

(3) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual license fee that he would have been liable to pay, if his name had not been withdrawn from the Register, and the amount of the fee prescribed for such re-entry.

Registrar to  
remove  
names of  
deceased  
persons from  
Register.  
Amended by  
No. 75 of  
1963, s. 13;  
No. 108 of  
1972, s. 15.

25. When any person who is registered as a dentist or dental therapist dies, the Registrar shall, upon being satisfied as to the death of such person, strike or erase the name of such person from the Register.

Registrar to  
amend  
Register to  
ensure  
accuracy.  
Repealed and  
re-enacted by  
No. 75 of  
1963, s. 14.  
Amended by  
No. 108 of  
1972, s. 16.

26. Subject to the directions of the Board, the Registrar shall, from time to time, as the occasion requires, make such amendments, additions, alterations and corrections in the Register as may be necessary to make the Register an accurate record of the names, addresses, qualifications and descriptions of all dentists and of all dental therapists.

List of  
dentists and  
dental  
therapists  
to be  
published  
annually.  
Amended by  
No. 75 of  
1963, s. 15;  
No. 108 of  
1972, s. 17.

27. (1) Once in every year the Board shall cause to be published in the *Government Gazette* a list of all the dentists and all the dental therapists whose names appear in the Register.

(2) As soon as may be after the name of a dentist or a dental therapist has been entered in, withdrawn from, or struck off, the Register the Board shall cause notice of that event to be published in the *Government Gazette*.

(3) Every notification in the *Government Gazette* as aforesaid shall be conclusive evidence of the facts therein stated, unless and until the same is modified by any order of a Judge of the Supreme Court, or by any subsequent notification in the *Government Gazette* by the Board.

Copy or  
extract of  
Register to be  
*prima facie*  
evidence.  
Amended by  
No. 75 of  
1963, s. 16.

28. A copy of or an extract from the Register, certified as a true copy or as a true extract by the President or the Registrar, shall in all courts of law be *prima facie* evidence of all the facts appearing therein.

29. A written certificate purporting to be signed by the President or the Registrar stating that at a date or between the dates therein mentioned a person therein named was or was not registered as a dentist or as a dental therapist, as the case may be, shall be *prima facie* evidence of the truth of such statement.

Certificate of President or Registrar to be *prima facie* evidence.

Amended by No. 75 of 1963, s. 17; No. 108 of 1972, s. 18.

30. (1) The name of any dentist or dental therapist registered in the Register may be struck off the Register if the Board, after due inquiry, is satisfied that—

Disciplinary powers.

Repealed and re-enacted by No. 108 of 1972, s. 19.

- (a) the registration was obtained by fraud or misrepresentation;
- (b) before or after registration, the person named was or has been convicted of an offence which, in the opinion of the Board, renders that person unfit to practise as a dentist or to be employed as a dental therapist;
- (c) as the result of a finding of any other authority lawfully exercising outside the State powers similar to those conferred on the Board by this Act, that person has been at any time, and in the opinion of the Board should continue to be, disqualified from carrying on practice as a dentist or from employment as a dental therapist;
- (d) the dentist or dental therapist is addicted to alcohol or any deleterious drug or suffers from any mental or physical disorder to a degree that renders that person unfit to practise as a dentist or be employed as a dental therapist; or
- (e) that dentist or dental therapist is guilty of misconduct in a professional respect by reason of carelessness, incompetence, impropriety, infamous conduct, or a breach of the provisions of this Act.

(2) Any person may make to the Board an allegation that a dentist or dental therapist is guilty of misconduct in a professional respect, and the Board shall consider all such allegations after affording the dentist or the dental therapist concerned an opportunity of giving an explanation to the Board either in person or in writing.

(3) Instead of causing the name of any person to be struck off the Register in accordance with subsection (1) of this section, where the Board considers that the matter does not in the public interest require that the dentist or dental therapist concerned should be disqualified from practice or employment as such, the Board may—

- (a) order that the particulars entered in the Register in relation to that person be amended, and amend those particulars accordingly;
- (b) censure that person;
- (c) require that person to give an undertaking, either with or without security, for such period as the Board thinks necessary—
  - (i) in the case of a dentist to comply with such conditions as the Board may impose in relation to that person's practice; or
  - (ii) in the case of a dental therapist, to work under supervision, or to complete a specified course of instruction or study;
- (d) order that person to be fined such an amount, not exceeding one thousand dollars, as the Board thinks fit; or
- (e) suspend that dentist or dental therapist from practice or employment as a dental therapist generally, or from the performance of any specified operation, service or act of dentistry or dental therapy for a period not exceeding twelve months.



(4) The Board may, in any case, in addition to or in lieu of imposing any one or more of the penalties specified in this section, order that dentist or dental therapist to pay such costs and expenses of or incidental to the proceedings as the Board thinks fit.

(5) Where any fine, costs or expenses are ordered to be paid by any dentist or dental therapist under this section the amount ordered to be paid shall be recoverable from that person in any court of competent jurisdiction as a debt due to the Board.

**30A.** Where the Board, after due inquiry, is satisfied that a dentist or a dental therapist who has given an undertaking to the Board pursuant to section thirty of this Act has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board may, in addition to or in lieu of proceeding against that person in accordance with the undertaking, impose on that person such further penalty under section thirty of this Act in respect of the matter as a consequence of which the undertaking was required to be given as the Board thinks fit, and may also impose any such penalty in relation to the conduct or omission giving rise to the breach or the failure to comply with the conditions imposed.

Breach of  
undertaking.  
Added by  
No. 108 of  
1972, s. 20.

**30B.** (1) Before making any order under section thirty or section thirty A of this Act in relation to a dentist or a dental therapist the Board shall hold an inquiry into the matter and shall give to that person notice of the time and place at which the inquiry is to be held and sufficient details of the matters to be inquired into to enable that dentist or dental therapist to show cause why the Board should not deal with that person in accordance with the provisions of that section.

Inquiry.  
Added by  
No. 108 of  
1972, s. 21.

(2) In conducting the inquiry the Board is not bound by rules of evidence or legal procedure and may inform itself in such manner as it thinks fit but

shall afford the dentist or dental therapist concerned an opportunity to be heard, either in person or by solicitor or counsel, and to examine witnesses.

(3) If so requested by the dentist or dental therapist concerned, the Board shall sit and conduct the proceedings as if it were an open court.

(4) Where the Board takes any action under section thirty of this Act in relation to a person, the Board shall record the finding on which the decision was based, and its reasons.

Name of  
person struck  
off may be  
restored.  
Amended by  
No. 75 of  
1963, s. 19;  
No. 108 of  
1972, s. 22.

31. (1) Any person whose name has been struck off the Register as provided for in section thirty or section thirty. A of this Act, may at any time thereafter apply to the Board in the manner prescribed to have his name re-entered in such Register or in the record aforesaid.

(2) The Board may refuse or grant any application made under subsection (1) hereof.

(3) When the Board grants such an application it shall direct the Registrar, on payment to him by the applicant of a fee or charge, to be assessed in accordance with subsection (4) hereof, to re-enter the name of the applicant in the Register, and on payment being made as aforesaid the Registrar shall comply with the direction of the Board.

(4) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual license fee that he would have been liable to pay, if his name had not been struck off the Register, and the amount of the fee prescribed for such re-entry.

Effect of  
striking off.  
Repealed and  
re-enacted by  
No. 75 of  
1963, s. 20.  
Amended by  
No. 108 of  
1972, s. 23.

32. Where the name of a person has been struck off the Register, that person shall cease to be registered as, and shall be disqualified from practising as, a dentist or from employment as a dental therapist, as the case may be, until such time as his name is re-entered in the Register.

32A. (1) Where a dentist or a dental therapist is suspended from practice or from employment as a dental therapist generally that person shall be deemed not to be registered as, and shall be disqualified from practising as, a dentist or from employment as a dental therapist, as the case may be, during the period for which the suspension subsists.

Effect of  
Suspension.  
Added by  
No. 108 of  
1972, s. 24.

(2) The Board may, by notice in writing, revoke the suspension and may direct in the notice that the revocation have effect from a date specified in the notice.

33. (1) Whenever the Board—

- (a) refuses to register any person as a dentist or dental therapist, as the case may be; or
- (b) causes the name of any person to be struck off the Register; or
- (c) refuses to re-enter in the Register the name of any person whose name has previously been withdrawn from or struck off the Register; or
- (d) suspends any dentist or dental therapist; or
- (e) imposes any penalty or makes any order as to costs in disciplinary proceedings under this Act,

Appeal.  
Amended by  
No. 75 of  
1963, s. 21;  
No. 108 of  
1972, s. 25.

a person aggrieved may, within three months after the date of the decision by the Board, make application in writing to the Board in the prescribed manner for a statement by the Board in writing of its reasons for such decision, and the Board shall, as soon as reasonably may be after receipt of such application, furnish the applicant with the statement aforesaid.

(2) Within one month after receipt of the statement from the Board as aforesaid, the person aggrieved by the decision by the Board aforesaid may appeal from such decision to the Supreme Court.

(3) An appeal to the Supreme Court under this section shall be brought and the proceedings shall be had in such manner as may be prescribed by the rules of the Supreme Court, shall be heard and determined by a single Judge and may be in the nature of a re-hearing.

[PART IV. ss. 34, 35, 36 *Repealed by No. 75 of 1963, s. 22.*]

[PART V. ss. 37, 38, 39, 40, 41, 42 *Repealed by No. 75 of 1963, s. 22.*].

#### PART VI.—REGISTRATION.

43. [*Repealed by No. 108 of 1972, s. 26.*]

Qualifications for registration as a dentist. Amended by No. 13 of 1947, s. 2; No. 75 of 1963, s. 24; No. 11 of 1967, s. 3; No. 108 of 1972, s. 27.

44. (1) No person shall be qualified for registration as a dentist under this Act, unless and until he proves to the satisfaction of the Board, and, if so required after personal attendance before the Board, that—

- (a) he is over the age of twenty-one years when he applies for registration;
- (b) he has in all respects complied with the requirements of this Act and the rules and regulations;
- (c) he is a person of good character;
- (d) he has gained by examination and holds—
  - (i) the primary qualification in dentistry of the Royal College of Surgeons either of England, Ireland, Edinburgh, or Glasgow, or holds a primary qualification in dental surgery or dental science of any University of the United Kingdom or of Ireland, New Zealand, or Australia and at the date of his

application for registration under this Act is entitled to registration as a dentist in the country where such primary qualification was granted; or

- (ii) a primary qualification in dental surgery or dental science granted by such university that was, when the primary qualification was granted, in any part of the British Commonwealth of Nations or the Queen's Dominions, other than those mentioned in subparagraph (i) hereof, as may be prescribed by the Board, and has passed in this State such examination (if any) as may be prescribed by the Board, and at the date of his application for registration under this Act is entitled to registration as a dentist in the country where such primary qualification was granted; or
- (iii) [*Deleted by No. 108 of 1972, s. 27.*]
- (iv) a primary qualification in dental medicine or dental surgery that was granted by an institution in the United States of America that is accredited by the American Dental Association, the further qualification attained by satisfying the requirements of the National Board of Dental Examiners in that country, and at the date of his application for registration under this Act is entitled to registration as a dentist in one or more of the States of that country.

(2) Any person who satisfies the Board that in accordance with the provisions of subsection (1) hereof he is qualified for registration as a dentist under this Act, shall, subject to this Act and the rules and regulations and upon payment of the prescribed registration fee, be entitled to be and shall be registered in the Register kept in accordance with this Act.

Temporary  
registration.  
Added by  
No. 108 of  
1972, s. 28.

44A. (1) Any person who is in Western Australia or proposes to come to Western Australia and who satisfies the Board that he proposes to undertake a course in post graduate study or professional practice and training under supervision, or to engage in teaching or research in dental surgery or dental science, may, upon payment of the prescribed fee, be granted by the Board a certificate of temporary registration as a dentist for the purposes of this Act.

(2) A certificate granted under subsection (1) of this section may be made subject to such limitations and restrictions upon the practice of dentistry by the applicant and to such other conditions as the Board in any particular case specifies in the certificate.

(3) Every certificate granted under subsection (1) of this section may in the first place be issued for a period of not more than twelve months, but upon application to the Board during the currency of the certificate may from time to time be renewed for a further period or periods of not more than twelve months in respect of each such application, but so that the maximum period for which a certificate may be in force under this section in respect of any person shall not in the aggregate exceed three years.

(4) The Board may at any time cancel any certificate issued or renewed under subsection (1) of this section, or may vary any limitation, restriction or condition to which it was made subject.

(5) Every person in respect of whom a certificate of temporary registration as a dentist is granted shall, while the certificate remains in force and so long as he does not infringe the restrictions or limitations or contravene the conditions to which it was made subject, be deemed for all the purposes of this Act to be a registered dentist, and his name and such other particulars as the Board considers to be material shall be entered by the Registrar in the Register as a person to whom temporary registration has been granted.

44B. (1) No male person shall be qualified for registration as a dental therapist under this Act.

Qualification for registration as a dental therapist. Added by No. 108 of 1972, s. 29.

(2) A person shall be qualified for registration as a dental therapist under this Act, if she proves to the satisfaction of the Board, and, if so required after personal attendance before the Board, that—

- (a) she has attained the prescribed age when she applies for registration;
- (b) she has in all respects complied with the requirements of this Act and the rules and regulations;
- (c) she is a person of good character; and
- (d) she has completed the prescribed course of training and passed the prescribed examinations.

(3) Any person who satisfies the Board that she has completed an approved course of study and professional practice and training as a dental therapist outside Western Australia may, subject to such further or other training as the Board requires, be dealt with by the Board as if she were a person who had completed the prescribed course of training and passed the prescribed examinations.

(4) Any person who satisfies the Board that in accordance with the provisions of this section she is qualified for registration as a dental therapist under this Act, shall, subject to this Act and the rules and regulations and upon payment of the prescribed fee, be entitled to be and shall be registered in the Register kept in accordance with this Act.

#### PART VII.—MISCELLANEOUS.

45. (1) The Board may by a summons in the prescribed form require—

Board may require attendance at inquiries, etc. Amended by No. 75 of 1963, s. 25; No. 108 of 1972, s. 30.

- (a) the attendance of a dentist or a dental therapist at any proceedings held under section thirty B of this Act which concern that person, and may also require the

attendance at any such proceedings of any other person who, in the opinion of the Board, can give evidence or produce documents touching the matter in question, or whom the complainant (if any) or the dentist or dental therapist may desire to call as a witness; and

- (b) the attendance before the Board of any applicant for registration or for recognition as provided for by this Act, and of any other person who, in the opinion of the Board, can give evidence in connection with the application of any such applicant.

(2) The Board may examine on oath or affirmation all persons attending before the Board pursuant to the requisition of the Board under this section or voluntarily attending to give evidence, and for such purpose the President or other member acting as chairman of the Board during the proceedings by the Board or during the meeting of the Board at which any person is required to give evidence or desires to give evidence may administer an oath or affirmation.

(3) Every summons issued by the Board to any person under this section may also require the production of any documents by the person summoned, and shall have the same effect as a subpoena *ad testificandum* or *duces tecum*, as the case may be, issued by the Supreme Court in a civil action, and the obedience to such summons may be enforced by the Supreme Court or a Judge thereof on application by the Board, in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said Court.

Annual  
license fees.  
Amended by  
No. 48 of  
1954, s. 3;  
No. 75 of  
1963, s. 26;  
No. 113 of  
1965, s. 8;  
No. 108 of  
1972, s. 31.

46. (1) No dentist or dental therapist shall practise dentistry or act as a dental therapist—

- (a) unless that person holds a license so to do issued by the Board;



- (b) so as to infringe any restriction or limitation, or to contravene any condition, imposed upon that person by the Board.

Penalty: Five hundred dollars.

(2) Every person whose name appears in the Register shall be entitled to a license either as a dentist, or as a dental therapist, as the case may require, but whether such person applies to the Board for such license or not, he shall, whilst his name continues to appear in the said Register be liable to pay and shall pay the prescribed annual license fee.

(3) [*Repealed by No. 108 of 1972, s. 31.*]

(4) [*Repealed by No. 75 of 1963, s. 26.*]

(5) Licenses issued to dentists or to dental therapists, as the case may be, under this section shall be in the prescribed form and shall be signed by the Registrar.

(6) Subject as hereinafter provided, licenses issued under this section shall have effect for one year ending on the thirty-first day of December in each year.

Provided that—

(i) [*Repealed by No. 108 of 1972, s. 31.*]

and

(ii) licenses issued under this section at any time of a year shall have effect only until the thirty-first day of December next following the issue thereof.

(7) The license fees payable under this section shall, subject to subsection (6) hereof, be due and payable during the month of January in each and every year, or within one month after the name of the person is entered in the Register, and when such fee is paid within the time hereinbefore prescribed for the payment thereof, such payment shall be

deemed to have been made as from and including the first day of the month of January in which it is paid or as from and including the date of registration.

Person making default in payment of license fee to be struck off  
Repealed and re-enacted by No. 75 of 1963, s. 27.  
Amended by No. 108 of 1972, s. 32.

47. (1) Where a person fails or neglects to pay the license fee provided, within the time prescribed, by section forty-six of this Act, his name shall, forthwith upon his making default, be struck off the Register.

(2) Where the name of a dentist or dental therapist is struck off the Register pursuant to this section, the Board shall, upon the receipt of an application in writing for the restoration, signed by that person together with the amount of any prescribed penalty and of the fee prescribed for the re-entry, restore his name to the Register.

Offences.  
Amended by No. 75 of 1963, s. 28.

48. Any person who—

- (a) makes or causes to be made any falsification in any matter relating to the Register; or
- (b) presents or causes to be presented to the Board or the Registrar any forged, false or counterfeit certificate, diploma, degree, license or other document; or
- (c) personates or wrongfully represents himself as being the person referred to in any certificate, diploma, degree, license, or other document; or
- (d) procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent declaration or representation, either verbally or in writing; or

- (e) makes any false statement upon any inquiry or examination held or conducted by the Board in exercise of a power in that behalf conferred by this Act; or
- (f) makes any false statement in any declaration required by the Board under this Act or the rules or regulations,

shall be guilty of a misdemeanour and shall on conviction be liable to imprisonment for a term not exceeding two years.

49. (1) No person other than a dentist, and no company, shall take or use, or by inference adopt or otherwise hold himself or itself out as being entitled to use the name or title of "dentist," "dental surgeon," "dental practitioner," "mechanical dentist," or any other name, title, word, letters, addition, or description implying or tending to the belief that he or such company is registered as a dentist under this Act, or is entitled to practise dentistry, or is carrying on alone or with others the practice of dentistry.

No person other than dentist to use name or title of dentist, etc.  
Amended by No. 113 of 1965, s. 8.

(2) No company and no dentist or person other than a person or persons authorised to use a firm-name by section fifty-six of this Act shall take or use or have attached to or exhibited at any place the words "dental company," "dental institute," "dental hospital," "dental college," "college of dentistry," "school of dentistry," or any other words in which the word "dental" or "dentistry" appears.

(3) Any person who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

Practice of  
dentistry by  
certain  
persons  
prohibited.  
Repealed and  
re-enacted by  
No. 75 of  
1963, s. 29.  
Amended by  
No. 113 of  
1965, s. 8;  
No. 98 of  
1970, s. 3;  
No. 108 of  
1972, s. 33.

50. (1) No person, other than a dentist, and no company shall—

- (a) practise dentistry or perform any act of dentistry; or
- (b) hold himself, or hold itself, out, either directly or by implication, as practising, or being prepared to practise, dentistry in any of its branches.

(2) This section does not apply to—

- (a) a person who, without reward or the expectation of reward, extracts a tooth or teeth, for the immediate relief of pain, at a place not less than fifty miles by the shortest road journey from the nearest place of business of a dentist;
- (b) a medical practitioner who performs an act of dentistry, not being—
  - (i) the preparation of a cavity in a tooth, with a view to the permanent restoration of the tooth; or
  - (ii) the fitting, insertion or fixing of artificial teeth, the artificial restoration of lost teeth or the mechanical construction of artificial dentures;
- (c) a student in the Dental School of the University of Western Australia, under the direction of a dentist, in that school; or
- (d) any person visiting the State, as an official dental clinician, for the purpose of giving professional instruction and who, although not being registered, or entitled to be registered, under this Act, performs acts of dentistry, in the course of giving the professional instruction, for a period not exceeding twelve months, pursuant to the permission in writing of the Board, which permission the Board is by, and subject to, this paragraph authorised to give; or

- (e) a student who, while undergoing instruction in a school of dental therapy that is approved by the Board, performs an act of dentistry under the direction of a dentist; or
- (f) a dental therapist who performs under the direction and control of a dentist any act of dentistry authorised under the provisions of section fifty A of this Act.

(3) Every person who, or company that, contravenes the provisions of this section commits an offence.

Penalty: For a first offence, eighty dollars; and, for any subsequent offence, two hundred dollars.

**50A.** (1) A dental therapist, under the direction and control of a dentist and for the purpose of assisting that dentist in the prevention, control, or treatment of dental disease and who is employed by a dentist, a hospital within the meaning of the Hospitals Act, 1927, a university or tertiary educational authority established pursuant to any Act, or by the Department of the Public Service of the State known as the Department of Public Health, may undertake—

Acts which may be performed by dental therapists. Added by No. 108 of 1972, s. 34. Amended by No. 107 of 1975, s. 2.

- (a) dental hygiene duties, including—
  - (i) dental health education;
  - (ii) procedures associated with chairside assistance to a dentist;
  - (iii) pre-operative and post-operative instruction;
  - (iv) dental radiography for usual dental examinations;
  - (v) the application of a rubber dam;

*Dental.*

- (vi) the irrigation of the mouth;
  - (vii) the removal of sutures;
  - (viii) the topical application of solutions;
  - (ix) the removal of dental calculus;
  - (x) the cleaning and polishing of teeth and restorations;
  - (xi) the taking of impressions for study casts;
  - (xii) the insertion and removal of surgical packs; and
  - (xiii) the removal of orthodontic bands;
- (b) practice management duties;
- (c) the following acts of dentistry—
- (i) the administration of infiltration and inferior dental nerve block local analgesia;
  - (ii) the extraction by forceps of loosened deciduous teeth under local analgesia;
  - (iii) the emergency treatment of pulp exposure;
  - (iv) the preparation and restoration of cavities in deciduous and permanent teeth of pre-school and school children by amalgam cement and plastic material; and
  - (v) the restoration of prepared cavities in deciduous and permanent teeth by the use of materials other than cast metal, gold foil, or porcelain.

(2) Where clinical treatment of a patient is to be carried out by a dental therapist, the dentist under whose direction and control the treatment is to be given shall examine the patient before the treatment commences and also after the treatment within such time as is prescribed, and whilst he is not in full time attendance shall remain reasonably available for consultation.

(3) For the purposes of this section, it shall be sufficient compliance with the requirement for a dentist to remain reasonably available for consultation, if he, or another dentist specified by him, would be available to render assistance to the dental therapist if such assistance is required by her.

**50B.** (1) For the purpose of this section "clinic" means any premises under the control of a dentist wherein the dentist employs the services of dental therapists on a regular full time basis at those premises.

Clinics.  
Added by  
No. 108 of  
1972, s. 34.

(2) No dentist shall operate more than two clinics.

(3) No premises shall be classified as a clinic under this section if a dentist is in attendance thereat so long as such premises shall be open.

(4) No dentist shall employ more than two dental therapists and in the case of dental therapists employed by the Department of the Public Service of the State known as the Department of Public Health they shall not be employed in any higher proportion than two dental therapists for each dentist employed by such Department provided that such proportion may be exceeded if necessary for the purposes of the schools dental service operated by such Department.

51. Subject as hereinafter provided no person other than a dentist, and no company, shall be entitled to charge or to sue in any court for the recovery of any fee or other remuneration, or to

Persons other  
than dentists  
prohibited  
from  
charging fees.  
Amended by  
No. 11 of  
1967, s. 4.

counterclaim or set off any such fee or other remuneration in respect of any act of dentistry performed by him or it:

Provided that this section shall not apply—

- (a) to any person or persons practising dentistry under a firm-name under the authority of section fifty-six of this Act; or
- (b) to any medical practitioner who performs an act of dentistry as authorised by paragraph (b) of subsection (2) of section fifty of this Act.

Dental  
Charges  
Committee.  
Added by  
No. 108 of  
1972; s. 35.

**51A.** (1) For the purposes of this Act there shall be established a committee to be known as the Dental Charges Committee.

(2) The Committee shall consist of—

- (a) the person designated as the Principal Dental Officer of the Department of the Public Service of the State known as the Department of Public Health, or a person nominated by him in writing for the purpose, who shall be chairman; and
- (b) two other members appointed by the Governor, of whom—
  - (i) one shall be a dentist in private practice nominated by the Australian Dental Association (W.A. Branch) Inc.;
  - (ii) one shall be a qualified accountant nominated by the Minister.

(3) A member may be appointed to hold office for any term not exceeding three years, is eligible for re-appointment, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.



(4) The Governor may appoint a person to be a deputy of a member, and a reference in this section to a member shall be construed as a reference to a deputy taking the place of that member in the absence of that member from any meeting.

(5) A member, not being a person to whom the Public Service Act, 1904, applies, may be paid such remuneration and allowances as the Governor determines.

(6) If a member—

- (a) becomes permanently incapable of performing his duties as a member;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) absents himself, except on leave duly approved by the Minister, from three consecutive meetings,

the office of that member becomes vacant.

(7) The Committee shall hold meetings at such times and places as it thinks fit, but may be convened at any time by the Minister.

(8) The proceedings of the Committee shall not be invalidated by reason only of there being a vacancy in the office of a member or there being a defect in the appointment of any member.

(9) At a meeting of the Committee—

- (a) three members form a quorum;
- (b) if the chairman is absent the members present shall elect one of their number to preside at that meeting and while so presiding that member is deemed to be the chairman;
- (c) any question arising shall be determined by a majority of the votes of the members present;
- (d) the member presiding has a deliberative vote only.

(10) Subject to this Act, the Committee may regulate its procedure in such manner as it thinks fit.

Dentist may  
sue for fees.  
Added by  
No. 108 of  
1972, s. 36.

**51B.** A dentist shall be entitled to sue in any court of competent jurisdiction for the recovery of his fees or other remuneration for his professional services in dentistry or in the performance of any dental operation or for any dental attendance or advice, and it shall be sufficient to state in the particulars of demand the words "for dental services" which shall include every demand for any act of dentistry, attendance and advice and for any articles supplied by the plaintiff to the defendant for dental purposes.

Review of  
charges.  
Added by  
No. 108 of  
1972, s. 37.  
Amended by  
No. 39 of  
1973, s. 2.

**51C.** (1) A person liable to pay fees or remuneration to a dentist for a dental service (not being a dental service constituting medical treatment for the purpose of the Workers' Compensation Act, 1912) may, within three months after service upon him of an account for the fees or remuneration, apply in writing to the Dental Charges Committee to review the account.

(2) The Committee shall, upon such an application,—

- (a) give to the applicant for the review an acknowledgment in the prescribed form that the matter is under review;
- (b) review the account;
- (c) certify, under the hand of the chairman, the amount which, in the Committee's opinion, is a reasonable amount of fees or remuneration for the dental service; and
- (d) set out, in such certificate, the facts on which the Committee's decision was based.

(3) The Committee may—

- (a) require a person to furnish such information as it thinks necessary or desirable for the purpose of a review under this section;
- (b) fix a time within which the information shall be furnished; and
- (c) proceed to review an account for fees or remuneration for a dental service without the information requested if it is not furnished within the time fixed.

(4) In reviewing an account the Committee is not required to conduct a formal hearing, but shall inform the applicant for the review and the dentist of any information furnished to the Committee under this section.

(5) In reviewing an account the Committee shall have regard, in particular, to—

- (a) the time occupied in giving, and the nature of, the dental service;
- (b) the distance between the dental surgery or residence of the dentist or dental therapist and the place at which the dental service was given;
- (c) the hours of the day or night at which the dental service was given;
- (d) the degree of skill, knowledge or experience required in the giving of the dental service;
- (e) whether the dental service was given by a specialist, a consultant, a dentist in general practice or a dental therapist; and
- (f) any special circumstances submitted by the dentist.

(6) In proceedings for the recovery of fees or remuneration in respect of a dental service, a certificate of the Committee under subsection (2) of

this section in relation to that dental service is evidence that the amount certified in the certificate is a reasonable amount of fees or remuneration for the dental service.

(7) Notwithstanding the provisions of any other subsection of this section the Committee may refer any application made to it under subsection (1) of this section to the Counselling Committee of the Australian Dental Association (W.A. Branch) Inc. for determination or report.

(8) Judicial notice shall be taken of the signature of the chairman appearing on a certificate under subsection (2) of this section and of the fact that the person by whom the certificate purports to have been signed was, at the time the certificate was signed, the chairman.

Stay of  
proceedings.  
Added by  
No. 108 of  
1972, s. 38.

51D. Where in any proceedings for the recovery of fees or other remuneration in respect of a dental service an acknowledgment in the prescribed form purporting to have been given to the defendant by the Dental Charges Committee and stating that the matter is under review by that Committee is produced to the court, those proceedings shall be stayed until the decision of the Committee is known unless the court for cause shown otherwise determines.

Executor of  
deceased  
dentists may  
continue  
practice.

52. Notwithstanding anything to the contrary contained in this Act, in case of the decease of any dentist carrying on the practice of dentistry at the time of his death, it shall be lawful for any executor of the will of such dentist, or for any administrator of his estate, to continue the business or practice of such deceased dentist for a period not exceeding twelve months after the death of such dentist, or for such longer period as the Board in writing may permit: Provided that such business or practice so continued shall be conducted *bona fide* by a dentist who during such period is registered under this Act.

53. (1) No person, whether a dentist or not shall—

Use of  
certain  
letters  
prohibited.  
Amended by  
No. 113 of  
1965, s. 8.

- (a) use the letters "R.D.S."; or
- (b) use any combination of letters implying that he holds a dental degree or diploma conferred upon him by a university or other institution recognised by the Board under this Act, unless he shall be rightfully entitled to use the same; or
- (c) use or permit to be used in relation to dentistry, whether upon or as an addition to his nameplate or sign or otherwise howsoever any title, description, word, or letters unless he shall be rightfully entitled to use the same; or
- (d) in any manner falsely claim to hold a degree, license, certificate, diploma, membership, or other title, status, or document which is recognised by the Board as entitling the holder to be registered as a dentist under this Act.

(2) Any person who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: For a first offence—forty dollars; for any subsequent offence—one hundred dollars.

54. (1) No dentist shall exhibit or permit or suffer to be or remain exhibited in or about any portion of the premises at or in any part of which he carries on the practice of dentistry, any plate, notice board, or other notification that he practises at such premises of any kind or description other than that authorised by the rules or regulations:

Provisions  
relating to  
name-plates  
or signs.  
Amended by  
No. 113 of  
1965, s. 8.

Provided that any dentist who for a period of not less than four years next preceding the commencement of this Act was exhibiting and desires still to exhibit a plate, notice board, or other notification aforesaid of a size or description or containing

matter not in conformity with the rules or regulations aforesaid, may within six months of the coming into operation of the said rules or regulations make application in the prescribed manner to the Board for a permit to continue the exhibition of the said plate, notice board, or other notification, and the Board may grant or refuse such permit, as it may think fit.

(2) Every dentist who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

Dentist not to be employed by or agent for any person who is not a dentist.  
Amended by No. 75 of 1963, s. 30; No. 113 of 1965, s. 8; No. 108 of 1972, s. 39.

## 55. (1) No dentist shall—

- (a) practise his profession as a dentist or perform any dental operation or service as the employee of or as agent for any company or any person which or who is not a dentist:

Provided that this section shall not apply to—

- (i) any dentist when he is practising his profession as a dentist as the employee of or as agent for any executor or administrator as provided by section fifty-two of this Act or as the employee of or as agent for any person or persons engaged in the business or practice of dentistry under the authority of section fifty-six of this Act; or
- (ii) any dentist when he is practising the said profession as employee of or as agent in any dental hospital or dental college or in any dental clinic established by or under the Crown or by any local government authority;

- (b) enter into any partnership with, or share his earnings in his profession as a dentist with any company, or with any person who is not a dentist; or
- (c) authorise or permit or suffer his name to be used by any company or by any person who is not a dentist in the practice of dentistry, or in the performance of any dental operation or service; or
- (d) authorise or permit or suffer any person who is not a dentist or dental therapist, medical practitioner, or female dental attendant or registered nurse to assist or take part in any act of dentistry or in any operation on the mouth or in any other dental operation or service; or
- (e) subject to section fifty-six of this Act, practise dentistry, or on any professional card, in any newspaper, journal, periodical, or otherwise advertise or hold himself forth as practising dentistry under a name other than his proper or usual name without any addition thereto.

(2) Every dentist who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

56. (1) Where any person is engaged in the business or practice of dentistry and desires to carry on the business or practice under a firm-name, the Board may, on application being made in the prescribed manner, and on being satisfied that the applicant is registered as the proprietor of that firm-name under the Business Names Act, 1962, grant to that person a permit authorising the use of that firm-name to describe that business or practice.

Provisions relating to use of firm-names. Amended by No. 75 of 1963, s. 31; No. 108 of 1972, s. 40.

(2) [*Repealed by No. 75 of 1963, s. 31.*]

(3) [*Repealed by No. 108 of 1972, s. 40.*]

(4) Provided that—

- (a) every permit granted under this section shall be in writing in the prescribed form, and shall be personal to the particular person or persons mentioned in the permit, and shall not in any way or under any circumstances, other than in the case of an executor or administrator of a deceased dentist carrying on the practice of the deceased dentist as provided by section fifty-two of this Act, be transferable or assignable to any person; and
- (b) this section shall be read subject to paragraph (a) of subsection (1) of section fifty-five of this Act.

(5) Any person who in respect to the practice of dentistry uses any firm-name not authorised by a permit granted by the Board under this section shall be guilty of an offence.

Penalty: Forty dollars and, in addition, a daily penalty of four dollars for every day or part of a day during which the offence is continued.

Board may  
apply for  
injunction.

57. (1) The Board may, subject to the Rules of the Supreme Court, apply to the Supreme Court, or a Judge thereof, for an injunction to restrain any person doing or continuing to do any act, matter, or thing which by this Act is declared to be an offence, and which is of a continuing nature, from doing or continuing to do such act, matter or thing, and on the hearing of such application such injunction may be granted, and such order may be made as to costs and otherwise as to the Court or Judge may seem fit.



(2) Any proceeding by the Board under subsection (1) hereof shall not in any way affect the liability of the person, whose act is complained of, to prosecution for an offence against this Act in relation to which the proceeding is taken by the Board under subsection (1) hereof.

58. Any person or company who or which does or permits, or suffers to be done any act, matter, or thing which by this Act such person or company is forbidden to do, shall be guilty of an offence, and, where no special penalty is prescribed by this Act in respect of such offence, shall be liable to a penalty of not less than ten dollars and not more than fifty dollars.

General  
penalty.  
Amended by  
No. 113 of  
1965, s. 8.

59. All offences under this Act or the rules or regulations may be prosecuted, tried, and determined, and all penalties and fines shall be enforced and recovered summarily in accordance with the provisions of the Justices Act, 1902-1936.<sup>1</sup>

Offences to  
be dealt with  
summarily.

60. The following provisions relating to prosecutions for offences under this Act shall apply, that is to say—

Provisions  
relating to  
prosecutions.  
Amended by  
No. 75 of  
1963, s. 32.

(a) it shall not be necessary for the prosecution to prove—

(i) that the defendant received any remuneration or reward in connection with the act, matter, or thing complained of; or

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<sup>1</sup> Now Justices Act, 1902-1977.

- (ii) the election and constitution of the Board, or the election of the President or any chairman or any member of the Board purporting to act or sign any document as such, or the appointment of the Registrar; or
  - (iii) that any offence was committed with a view to enabling the defendant to practise dentistry, or to claim the privileges conferred by this Act upon a dentist;
- (b) in a prosecution for unlawfully practising dentistry or performing any dental operation or service, proof that the defendant gave advice in relation to dentistry in a room or other place in or adjoining which there was a dental chair or dental engine, or dental instruments or implements, or materials pertaining to the practice of dentistry, shall be evidence that the defendant was practising dentistry; and
- (c) when any person is charged under this Act with performing any dental operation or service which it is unlawful for him to perform, it shall be sufficient for the prosecution to allege that such person is not entitled under this Act to perform such dental operation or service, and the burden of proof that he is so entitled shall rest on the person charged.

Factories and  
Shops Act,  
1963, not  
to apply  
to premises  
of a dentist.

61. The Factories and Shops Act, 1963, shall not apply to premises used by a dentist in the making, preparation, or adaptation of any articles used in connection with dentistry.

62. Every dentist shall be exempt from serving on any jury.

Dentists to be exempt from serving on a jury.

63. Notwithstanding anything to the contrary contained in the Fines and Penalties Appropriation Act, 1909 (No. 4 of 1909), all fines and penalties imposed in respect of offences against or under this Act are hereby appropriated to and shall be paid to and be recoverable by the Board.

Fines and penalties payable to the Board.

64. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for more effectually achieving the objects of this Act and for facilitating the exercise by the Board of its powers under this Act.

Regulations. Amended by No. 113 of 1965, s. 8.

(2) Regulations made by the Governor under this section may impose penalties not exceeding forty dollars in respect of any contravention of any of the regulations.

65. Notwithstanding the repeal or the deletion, by the Dentists Act Amendment Act, 1963, of any provisions of this Act relating to, or any reference made in this Act to, assistants, every person who, before the coming into operation of the former Act, was recognised as an assistant, under, and for the purposes of, the provisions of this Act as they then existed, may continue to be so recognised and may continue to act under, and be subject to, and exercise the rights conferred by, those provisions.

Saving of rights of assistants. Added by No. 75 of 1963, s. 33.

*Dental.*

## THE SCHEDULE.

Number of Act Repealed.	Title of Act Repealed.
58 Vict. No. 19 ....	The Dentists Act, 1894.
63 Vict. No. 23 ....	The Dentists Act Amendment Act, 1899.
No. 51 of 1920 ....	The Dentists Act Amendment Act, 1920.
No. 44 of 1926 ....	The Dentists Act Amendment Act, 1926.